

ASSEMBLY BILL

No. 1293

Introduced by Assembly Member Oropeza

February 22, 2005

An act to amend Section 2025.520 of the Code of Civil Procedure, relating to production of evidence.

LEGISLATIVE COUNSEL'S DIGEST

AB 1293, as introduced, Oropeza. Depositions.

Under existing law, when deposition testimony is stenographically recorded, the deposition officer is required to send written notice to the deponent and to all parties attending the deposition when the original transcript of the testimony for each session of the deposition is available for reading, correcting, and signing, except as specified.

This bill would authorize the deposition officer to provide that notice electronically, via e-mail.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2025.520 of the Code of Civil
2 Procedure is amended to read:
3 2025.520. (a) If the deposition testimony is stenographically
4 recorded, the deposition officer shall send written notice *or*
5 *electronic notice, via e-mail*, to the deponent and to all parties
6 attending the deposition when the original transcript of the
7 testimony for each session of the deposition is available for
8 reading, correcting, and signing, unless the deponent and the
9 attending parties agree on the record that the reading, correcting,

1 and signing of the transcript of the testimony will be waived or
2 that the reading, correcting, and signing of a transcript of the
3 testimony will take place after the entire deposition has been
4 concluded or at some other specific time.

5 (b) For 30 days following each notice under subdivision (a),
6 unless the attending parties and the deponent agree on the record
7 or otherwise in writing to a longer or shorter time period, the
8 deponent may change the form or the substance of the answer to
9 a question, and may either approve the transcript of the
10 deposition by signing it, or refuse to approve the transcript by not
11 signing it.

12 (c) Alternatively, within this same period, the deponent may
13 change the form or the substance of the answer to any question
14 and may approve or refuse to approve the transcript by means of
15 a letter to the deposition officer signed by the deponent which is
16 mailed by certified or registered mail with return receipt
17 requested. A copy of that letter shall be sent by first-class mail to
18 all parties attending the deposition.

19 (d) For good cause shown, the court may shorten the 30-day
20 period for making changes, approving, or refusing to approve the
21 transcript.

22 (e) The deposition officer shall indicate on the original of the
23 transcript, if the deponent has not already done so at the office of
24 the deposition officer, any action taken by the deponent and
25 indicate on the original of the transcript, the deponent's approval
26 of, or failure or refusal to approve, the transcript. The deposition
27 officer shall also notify in writing the parties attending the
28 deposition of any changes which the deponent timely made in
29 person.

30 (f) If the deponent fails or refuses to approve the transcript
31 within the allotted period, the deposition shall be given the same
32 effect as though it had been approved, subject to any changes
33 timely made by the deponent.

34 (g) Notwithstanding subdivision (f), on a seasonable motion to
35 suppress the deposition, accompanied by a meet and confer
36 declaration under Section 2016.040, the court may determine that
37 the reasons given for the failure or refusal to approve the
38 transcript require rejection of the deposition in whole or in part.

39 (h) The court shall impose a monetary sanction under Chapter
40 7 (commencing with Section 2023.010) against any party,

1 person, or attorney who unsuccessfully makes or opposes a
2 motion to suppress a deposition under this section, unless the
3 court finds that the one subject to the sanction acted with
4 substantial justification or that other circumstances make the
5 imposition of the sanction unjust.

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